



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/532,713	04/27/2005	Seung-Hyun Kim	3884-0124PUS1	8958
2292	7590	11/22/2006	EXAMINER	
BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747			PALO, FRANCIS T	
			ART UNIT	PAPER NUMBER
			3644	

DATE MAILED: 11/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/532,713	Applicant(s) KIM, SEUNG-HYUN	
	Examiner Francis T. Palo	Art Unit 3644	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 April 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 April 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>4/27/05</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

The subject matter of this application admits of illustration by figures and tables (in this instance specifically, poor quality reproductions of photographs) **to facilitate understanding of the invention.**

Applicant is required to furnish legible drawings under 37 CFR 1.81(c).

No new matter may be introduced in the required drawing.

Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d).

Specifically, the figures are objected to under 37 CFR 1.83(a).

The drawings must show every feature of the invention specified in the claims. Therefore, **the compressing and dividing steps as recited in step (b) of claim-1 and the insertion of the bulbous plants, covering with dried lid and further, compressing to produce a pellet as recited in step (d) of claim-1 must be shown or the feature(s) canceled from the claim(s).**

No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application.

Any amended replacement-drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

Applicant is reminded of the proper language and format for an **abstract** of the disclosure, the language should be clear and concise and in proper idiomatic English; see the last sentence of the abstract, particularly the language following 'can also be made'.

35 U.S.C. 112, first paragraph, requires the specification to be written in "full, clear, concise, and exact terms."

The **specification** is replete with terms, which are not clear, concise and exact. The specification should be revised carefully in order to comply with 35 U.S.C. 112, first paragraph.

Examples of some unclear, inexact or verbose terms used in the specification are: "entity"; 'a bulbous plants pellets'; 'the lid is covered with them'; 'to insert bulbous plants in that'; 'inserting the bulbous plants in the entity'; 'covering them with said dried lid and compressing them'; 'one of more materials'; "GA and NAA"; 'compressed to form a pellet by dividing it into a lid and entity'; 'hot wind drying method'; 'prevents the leaf emergence'; 'plastic cut age box'.

A substitute specification in proper idiomatic English and in compliance with 37 CFR 1.52(a) and (b) is required. The substitute specification filed must be accompanied by a statement that it contains 'no new matter.

Applicant is required to submit an amendment, which clarifies the disclosure so that the examiner may make a proper comparison of the invention with the prior art.

Applicant should be careful not to introduce any new matter into the disclosure (i.e., matter which is not supported by the disclosure as originally filed).

Claim Rejections - 35 USC § 112

Claims 1-5 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claims are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors.

Regarding **claim-1**:

Step (a) should be changed to (or some equivalent);

--mixing peat moss and a water-soluble glue with one or more materials selected from the group consisting of.....;--.

Step (b) is unclear; 'compressing and forming a pellet by dividing it into a lid and an entity'. Is applicant intending to claim compressing the mixture into a pellet and dividing it into a lid and receiving body for the seed or tuber portion or forming a spherical body out of the mixture and somehow removing the upper portion to form a cap or lid?

Step (c) is unclear; is applicant intending to use compressing in steps (b and c)?

Regarding **claims 2 and 3**:

Applicant should clarify if 'bud', 'eye' and or seed are intended to be pelletized.

Regarding **claim-5**:

Claims 4 and 5 could be combined and rewritten such as (or some equivalent);

--The method of claim 1 further comprising sowing the pellet without covering with soil.--.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5 are rejected under 35 U.S.C. 102(b) as anticipated by or,

in the alternative, under 35 U.S.C. 103(a),

as obvious over **Nilsson** (US 4,628,633) 1986.

Regarding **claim-1**:

As best can be understood from applicant's technical disclosure; Nilsson teaches a peat capsule provided with additives (col.-3, line-18 thereabout), the ideal shape being a ball-shaped pellet (col.-4, line-49 thereabout) and molding the capsule halves (col.-4, line-64) and applying a suitable water-soluble adhesive (col.-4, line 65).

The method steps recited in the instant claim would be readily apparent during the manufacture of the Nilsson pellet.

Regarding **claim-2**:

The discussion above regarding claim-1 is relied upon.

Nilsson teaches the cavity of the capsule for the seed (or seeds) may have any desired shape having a form that the seed fits into (col.-2, line-25 thereabout).

Whereas Nilsson is not specific as to 'bulbous plants' as claimed, and being as bulbous plants also can be propagated from seed, it would have been obvious to one of ordinary skill in the art at the time the invention was made, to have utilized the material as claimed, as the method of Nilsson encompasses seeds of any size or shape as taught by capsules having any size or shape.

Regarding **claim-3**:

The instant claim is merely a restatement of claims 1 and 2.

Regarding **claims 4 and 5**:

The discussion above regarding claim-1 is relied upon.

Planting out of the seed pellets would be inherent to the process of pelletizing, as claimed.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Brink '730; Adams '159; and Clifford '573 teach seed capsules with lids.

Knapp '034 teaches a seed cell with a lid.

Melvoid '989 teaches a seed containing peat moss briquette and covering.

Warner '165 teaches pelleting seeds with a mixture of peat moss and binder together with other ingredients.

Bissonnette '895A1 teaches a method for germinating a seed in an apparatus having a lid.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Francis T. Palo whose telephone number is 571-272-6907. The examiner can normally be reached on M-Tu.,Th.-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Teri Luu can be reached on 571-272-7045. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Francis T. Palo

Francis T. Palo
Primary Examiner
Art Unit 3644